

8915-0031/kag

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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TYSHAN JOHNSON,

Plaintiff,

-against-

CITY OF POUGHKEEPSIE, JOHN DOES I-VI,
sued in their individual capacities,

Defendants.

-----X

ANSWER

08 CIV. 6105 (kmk)

The defendant, CITY OF POUGHKEEPSIE, by its attorneys, McCabe & Mack, LLP, as and for its answer to the complaint of the plaintiff respectfully shows to the Court and alleges as follows:

INTRODUCTION

1. With regard to Paragraph "1" of the complaint, neither admits nor denies the statements because they state conclusions of law.

PARTIES

2. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs numbered "2" of the complaint.

3. With regard to Paragraph "3" of the complaint, admits only to the extent that the City of Poughkeepsie is a municipality organized under the laws of the State of New York.

4. Denies those allegations contained in paragraphs numbered "4" of the complaint.

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JURISDICTION

5. With regard to Paragraph "5", denies all allegations of fact and neither admits nor denies the statements to the extent that they state conclusions of law.

FACTUAL AVERMENTS

6. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs numbered "6", "7", "8", "9", "10", "11", "12", "13", "14", "15", "16", "17", "18", "19", "20", "21", "22", "23", "24", "25", "26", "28", "30" and "31" of the complaint.

7. Denies those allegations contained in paragraphs numbered, "32", "33" and "34" of the complaint.

8. With regard to Paragraph "27", admits only that plaintiff was arrested and after processing released on his own recognizance.

9. With regard to Paragraph "29", denies to the extent that false charges were brought without probable cause.

CAUSE OF ACTION

10. Repeats, reiterates and realleges each and every denial to each and every allegation contained in paragraphs numbered "1" through "34" and incorporated by reference in paragraph "35" of the complaint as if the same were more fully set forth herein at length.

11. Denies those allegations contained in paragraphs numbered "36" and "37" of the complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

12. All force used, if any, was reasonable and necessary.

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AS AND FOR A SECOND AFFIRMATIVE DEFENSE

13. Probable cause existed for plaintiff's arrest.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

14. Plaintiff's New York state causes of action fail to state claims due to non-compliance with New York General Municipal Law §50 *et seq.*

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

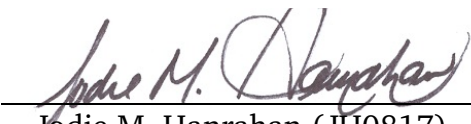
15. All physical contact between the plaintiff and any employee of the City of Poughkeepsie with respect to the arrest at issue in this case was privileged.

WHEREFORE, the defendant, CITY OF POUGHKEEPSIE, demands judgment dismissing the complaint of the plaintiff herein, plus the costs and disbursements of this action and for such other and further relief as to the Court may seem just and proper.

DATED: Poughkeepsie, New York
August 25, 2008

Yours, etc.

McCABE & MACK LLP

By: 
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